

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendments are fully supported by the specification and original claims, at least, at paragraphs [0062] – [0068] and original claim 3. No new matter is added.

Amendments

Claims 2, 3, and 8 are cancelled. Claims 1 and 4 are amended. Claims 9-12 are withdrawn. Claims 1, 4-7 are under examination.

Rejection under 35 U.S.C. § 112, first paragraph

In the Office Action, beginning at page 3, the rejections under 35 U.S.C. § 112, first paragraph, to claims 1, and 3-7 were maintained from the prior Office Action. Applicant respectfully requests reconsideration of this rejection.

Claim 1 has been amended to more specifically define the *Bacillus* mutant, in that the deficiencies in the genes are specifically recited. The gene(s) are disrupted, and methods for disrupting genes are well-described in the specification. These genes are well-known, as are their structures, and since the goal is to disrupt these genes so that expression is inhibited, the comments directed to maintenance of stability on the bottom of page 3 do not apply. It does not require much skill or prediction insight to disrupt a gene so that it does not function, particularly as compared to mutating a gene to produce a more stable or effective gene/protein. Therefore, the level of skill required is minimal, and methods for gene disruption are well-known in the art. The specification is completely enabling of the claimed invention.

For at least the foregoing reasons, Applicant respectfully submits that Claims 1, and 3-7 fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 112, second paragraph

In the Office Action, beginning at page 5, Claim 1 was rejected under 35 U.S.C. §

112, second paragraph, as reciting subject matters that allegedly are indefinite. Applicant respectfully requests reconsideration of this rejection.

Although applicant disagrees with the rejection, the objectionable language has been deleted.

For at least the foregoing reasons, Applicant respectfully submits that Claim 1 fully complies with 35 U.S.C. § 112, second paragraph, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 112.

Rejection under 35 U.S.C. § 102

In the Office Action, beginning at page 6, Claims 1, and 3-7 were rejected under 35 U.S.C. § 102(b), as reciting subject matters that allegedly are anticipated by Sato et al. Applicant respectfully requests reconsideration of this rejection.

Claim 1 has been amended to recite that the bacterium is further modified to be less susceptible to growth inhibition by 6-ethoxypurine in the presence of 2000mg/L of 6-ethoxypurine. Sato does not teach this feature, either explicitly or inherently, in that no further modification is specified, taught, or even suggested.

Applicants submit a declaration under 37 C.F.R. §1.132 presenting original data which shows that the resistance to 6-ethoxypurine is not inherent in a purR disrupted strain, such as that in Sato, but is specifically imparted by a mutagenesis technique such as those described in Example 2 of the specification. This data shows that the purR-disrupted strain as disclosed in Sato is not resistant to 6-ethoxypurine, and therefore, cannot be anticipatory of the present invention.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1, and 3-7, are not anticipated by Sato et al., are therefore not unpatentable under 35 U.S.C. § 102, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 102.


Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Ford believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, she is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

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